UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARISOL OLIVERAS AND CHRISTIAN MARTINEZ

Plaintiffs,

-against-

THOMAS ESPOSITO, AS CUSTODIAN ENGINEER, AND INDIVIDUALLY

Defendant.

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ECF CASE

VERIFIED COMPLAINT

Jury Trial Demanded

Plaintiffs, MARISOL OLIVERAS and CHRISTIAN MARTINEZ, by their attorney, LEE NUWESRA, complaining of Defendant, THOMAS ESPOSITO, as an Employing Custodian/Engineer, and Individually, respectfully allege as follows:

NATURE OF THE ACTION

1. Plaintiffs Marisol Oliveras and Christian Martinez bring Claims for Discrimination based on Race as well as Retaliation, in violation of § 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981 (1982) ("Section 1981"), against Defendant Employer Thomas Esposito, as Custodian/Engineer, and individually. Moreover, Plaintiffs bring supplementary Local Discrimination Claims based on Race, and Retaliation in the terms, conditions, and privileges of employment, as protected under the New York City Human Rights Law, Administrative Code §§ 8-101 et seq. (the "Code"), against Defendant Thomas Esposito. Furthermore, Plaintiffs claim Hostile Work Environment created and/or condoned by Defendant, Custodian Engineer Esposito, on the basis of Race and/or Sex.

2. Plaintiffs also seek costs and attorney's fees authorized by Section 1981, the Code, and other relevant Statutes.

JURISDICTION AND VENUE

3. The jurisdiction of the Court over this controversy as to enforcement of the provisions of 42 U.S.C. § 1981, is based upon 28 U.S.C. § 1331.

4. Supplemental jurisdiction of the Court over the New York City Claims brought under the Local Human Rights Law/Code is based on 28 U.S.C. § 1367(a).

5. The unlawful employment practices alleged below were committed within this District. Accordingly, venue lies within the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. § 1391(b).

PARTIES

6. Plaintiff Marisol Oliveras **(hereinafter "Plaintiff", or "Oliveras")**, resides in the Bronx County, State of New York. During all relevant times, Ms. Oliveras worked as a Cleaner at Dewitt Clinton High School, in the Bronx.

7. Plaintiff Christian Martinez **(hereinafter "Co-Plaintiff Martinez")**, resides in the Bronx County, State of New York. During all relevant times, Mr. Martinez worked as a Handyman at Dewitt Clinton High School, in the Bronx.

8. Defendant Thomas Esposito **(hereinafter "Defendant" or "Esposito")**, was/is at all relevant times, the Custodian/Engineer of Dewitt Clinton High School **("D.C.H.S")**. As such, he was Plaintiffs' employer, during the relevant time period. Upon information and belief, Defendant Esposito is a resident of State of New York.

RELEVANT PRIOR PROCEDURAL HISTORY

9. On or about November 20, 2014, the EEOC received Charges of Discrimination, filed by Plaintiff Oliveras against her then Employers, Custodian/Engineer Rafferty and the New York City Department of Education, averring Race, Sex, and Retaliation Claims. She was assigned **EEOC Charge #: 520-2015-00553.**

10. On or about 6-11-2015, the EEOC issued Plaintiff Oliveras a Notice of Right to Sue, which was received by her on 6-15-2015.

11. On 9-10-2015, Ms. Oliveras, by her current attorney, filed a timely lawsuit in the Southern District of New York, alleging Race, Sex, and Retaliation Claims, in the matter of **Oliveras v. James Rafferty, et al., 15 Civ. 7150 (AJN)**. Accordingly, the foregoing claims are not part of the instant Verified Complaint.

FACTS

Marisol Oliveras:

12. Plaintiff Marisol Oliveras is a Hispanic Female, of Puerto Rican descent, who engaged in Protected Activity.

13. At all relevant times, Ms. Oliveras worked for Defendant Thomas Esposito and the New York City Department of Education **(hereinafter "DOE")**. Throughout her tenure, her work performance was satisfactory.

14. At all relevant times, for the past 20 years, Ms. Oliveras was assigned to Dewitt Clinton High School **(D.C.H.S)**, as a School Cleaner.

15. At all relevant times, Plaintiff was the only Hispanic Female employed by Defendant Esposito, as a School Cleaner at D.C.H.S.

16. While working as a School Cleaner, Ms. Oliveras aspired to grow and develop professionally. Accordingly, she worked towards, and continuously sought one of the following

higher paying positions: a) A Boiler Maintenance Person; b) A Handy Person; or c) A Painter/ Painter's Helper.

17. All of the foregoing positions paid higher salaries than that of a School Cleaner, and provided better terms and conditions of employment.

18. Over the years, Ms. Oliveras completed and received her Maintenance Certification for Boilers #2, #4, and #6. She also received a Basic Plumbing Certificate, and has been certified as a Building Maintenance/Handy Person.

19. Moreover, over the years, Plaintiff Oliveras received the following training and Certifications: a) Fire Guard Generic; b) Locksmith and Security System; c) Air Pollution Control; d) Residual Fuel Oil, Burners, and Incinerators; and e) Standpipe Sprinkler Systems.

20. Sometime in November/December 2015, Defendant Esposito was assigned to Dewitt Clinton High School, as the Plaintiffs' employing Custodian Engineer. Shortly after his arrival to D.C.H.S, Esposito learned of Ms. Oliveras' claims against her employers, as referenced in paragraph 11 above.

21. Immediately thereafter, Ms. Oliveras became the subject of harassment, hostile work environment, and retaliation, which included but was not limited to her termination without justification in December 2016, and March 2017. Throughout her tenure under the supervision of Defendant Esposito, beginning in January 2016, he would constantly and continuously threaten her job security, unless she dropped her discrimination lawsuit.

22. In early February 2016, upon Plaintiff's return from vacation, she discovered that her clothing change room was "vandalized", with her cloth/uniform and other personal items strewn all over the place. She also discovered a big hole in the floor, with dust everywhere.

23. Ms. Oliveras went to see Defendant Esposito and was told that he would look into the situation. For several weeks, Plaintiff had to change in the Public Bathroom and had no place to store her personal property such as her non-work clothes, bag, and other valuables.

24. Although Defendant Esposito promised to get Plaintiff another suitable place, this never materialized. On the other hand, her male co-workers have a private area to accommodate their personal needs and store their equipment/supplies.

25. Moreover, upon her return from her prolonged vacation, she discovered that no one covered her assigned cleaning area. However, when her male colleagues went on vacation, she was expected to, and did in fact, cover their areas.

26. For example, when her male colleagues Benny and Chris were out, Plaintiff had to cover their areas as well as hers, including the Cafeteria.

27. Moreover, since her return from vacation in February 2016, Foreman Schwall, aided and abetted by Esposito, continuously berated and harassed Plaintiff. He further repeatedly threatened her job security at the school, stating he had the backing of Defendant Esposito.

28. Curiously, on 3-17-2016, as Ms. Oliveras arrived for work at about 5:30 a.m., Foreman Schwall was waiting for her. As she passed him by, he began to laugh, stating: "You'll see what's going to happen to you today". After she started her work, he began to follow her all over the place, including when she went into the Ladies' Room. Furthermore, he began cursing at her, using foul language, including the "F" word, "B" word, and referring to her as a "Dumb Puerto Rican".

29. Accordingly, as Plaintiff could not tolerate this retaliatory harassing work environment, Ms. Oliveras went to Defendant Custodian Engineer, Thomas Esposito, to lodge her complaints, again. However, this time she shared with Defendant Esposito that she feared for her safety, telling

Esposito that Benny was acting like a "Crazy Maniac". She suspected that Schwall was under some kind of influence.

30. Esposito's response was that she should transfer to another school. She declined, as to do so would cause her to lose her Seniority. To this, Defendant Esposito said there was nothing he could do, as Schwall was her immediate supervisor. He then suggested that she resign and let her husband take care of her.

31. Fed up, Plaintiff Oliveras was forced to punch out early, and went to the Local Police Precinct and lodged a Criminal Harassment Complaint against Supervisor Schwall.

32. After filing the Criminal Harassment Report with the Local Police Precinct against Foreman Schwall, Plaintiff Oliveras was shunned by Esposito, who singled her out for unnecessary micro-supervision, and video surveillance. He further encouraged her to voluntarily transfer out to another school. Once again, Plaintiff Oliveras declined.

33. In the interim, from March 18, 2016 to date, Foreman Schwall continues to harass Plaintiff Oliveras. He bullies and belittles her, yells at her and is continuously threatening her job security, declaring that he will do everything he can to have her fired.

34. Supervisor Schwall follows his threats by fabricating false accusations against Ms. Oliveras' work performance, and repeatedly getting in her face declaring that he is "in charge from now on".

35. As Defendant Esposito would not intercede on her behalf, and fearing for her physical safety, Ms. Oliveras had to return to the Local Precinct and file another Harassment Complaint against Schwall on 5-10-2016.

36. Unlike her male co-worker cleaners, Ms. Oliveras was relegated to clean the worst and most disgusting bathrooms during her shift. When she asked Defendant Esposito why she was assigned to this disgusting job, he would reply that Bathroom cleaning was a woman's work.

37. Unlike her male cleaner colleagues, Plaintiff Oliveras was not supplied with the proper supplies and means to accomplish her tasks. For example, she had to use a shovel to remove snow, while snow removal machinery and vehicles were utilized by her male coworkers. When she inquired from Defendant Esposito for the reason, he told her that she should not complain, and be happy that she has a job.

38. While the foregoing is not exhaustive of what Plaintiff has had to endure, it is a representative flavor of what she has been, and continued to experience throughout her tenure at D.C.H.S, by her Employers and their Agents, for exercising her rights as protected by the anti-discrimination laws.

39. As mentioned above, since becoming the Custodian Engineer, Plaintiff Oliveras regularly and continuously asked Defendant Esposito to be considered for any opening for which she was qualified, i.e. a) Boiler Maintenance Man; b) Painter; c) Handy Man; d) Painter's Helper; e) Foreman; and/or f) Office Secretary.

40. Throughout her tenure, Defendant Esposito made many appointments and promotions, for which Oliveras was qualified.

41. However, at no time did Defendant Esposito post any Notices for any of the Job Openings, or advise Ms. Oliveras of such Openings. Accordingly, Plaintiff would only learn of the foregoing positions, after they were filled by Esposito.

42. All of the promotional appointments made by Defendant Esposito were given to individuals outside her protected class, with much less seniority or qualification than Ms. Oliveras.

43. When Ms. Oliveras questioned Defendant Esposito about the reason for passing her over, she was told that he is the Boss, and that he can do whatever he wants.

44. He further reminded her of his goal to get rid of her, unless she dropped her lawsuit.

45. He also added that she will never get a promotion, because she mentioned his name in her lawsuit, and making him testify, at a scheduled deposition.

46. Accordingly, Plaintiff Oliveras protested such discriminatory treatment. Amongst others, she complained to her Union, Local 32B-32J.

47. In December 2016, Defendant Esposito in order to get rid of Ms. Oliveras and her son, used the excuse that, on 12-17-2016; she did not show up to remove snow that had fallen that weekend.

48. However, no one had contacted her, or told her beforehand that she was required to show up on her day off to remove snow. Previously, when she showed up on her own, Defendant Esposito and Supervisor Schwall would send her home. Moreover, on some occasions, where she was asked to do over time, she was not paid accordingly.

49. So when Plaintiff Oliveras showed up to work on 12-19-2016, Defendant Esposito terminated her along with her son Co-Plaintiff Martinez, and other Black Minority Employees. However, none of White Employees that did not show up were fired. Eventually, the terminated employees were reinstated, including Plaintiffs.

50. On 12-19-2016, when handing Plaintiffs the termination notices, Defendant Esposito declared: "I told you that I was going to get you for complaining and making me testify."

Christian Martinez:

51. At the age of 18, Co-Plaintiff Martinez began working at Dewitt Clinton High School, as a temporary/seasonal employee.

52. Co-Plaintiff Martinez began his tenure as a full-time Cleaner at D.C.H.S. in July 2003. Mr. Martinez is the Son of Plaintiff Oliveras.

53. He continued in that position with no incident, until October 2015, when he was promoted to the position of a Field Handyman, by former Custodian Engineer Mr. Saleh Chioke.

54. In December 2015, Defendant Esposito became the Custodian Engineer at D.C.H.S. Shortly thereafter, in early 2016, Esposito found out about the familial relationship between Plaintiffs. Soon thereafter, Esposito began a campaign of hostility toward Co-Plaintiff Martinez.

55. Amongst others, Esposito began to accost Martinez and make derogatory remarks toward him. For example, he would make repeated comments such as "You Dumb Puerto Ricans".

56. Defendant Esposito made it expressly clear to Martinez that because his Mom, Marisol Oliveras, had made mention of his name in her discrimination claims, he was going to get rid of both of them, in retribution thereof.

57. As a Field Handyman, part of Mr. Martinez's duty is to take care of approximately 25 acres of outdoor property, which includes a Football Field, a Baseball Field, a Softball Field, and Tennis Courts. Significantly, he had to prepare the Ball Fields and cut the grass.

58. The overwhelming majority of the student body (80%-90%) is Latinx. To that end, Defendant Esposito regularly declined to have Mr. Martinez appropriately prepare the Ball Field, for upcoming events. Esposito's reasoning given to Martinez: "These Dumb Puerto Rican Spics are no Yankees".

59. In furtherance of Martinez's harassment, whenever it rained, Defendant Esposito would walk to the Field Outhouse and order Co-Plaintiff to cut the grass. Mr. Martinez explained that grass should not be cut during rain or while it is wet, as such exercise would be futile and damage the machinery. Defendant Esposito's response was "I am Italian, not Mexican, what do I know about grass cutting?" However, Esposito would continue to insist that Martinez go out in the rain and cut the grass.

60. Moreover, throughout his tenure, under the directorship of Defendant Esposito, Mr. Martinez has been denied the appropriate pay scale of a Handyman.

61. Furthermore, Defendant Esposito refused to provide Mr. Martinez with the proper equipment and machinery to do his job. Defendant Esposito also refused to reimburse Mr. Martinez for supplies he needed to do his job, such as Diesel and Gasoline.

62. To compound the hostile work environment created by Defendant Esposito, Mr. Martinez did not get the help his position required, and was denied the overtime necessary to successfully do his work.

63. Defendant Esposito repeatedly threaten to fire Mr. Martinez due to his Mother's, Plaintiff Oliveras', discrimination claims pending against former Custodian Engineer Rafferty and the Department of Education.

64. During the process of both terminations, Defendant Esposito proudly declared that he was firing Mr. Martinez to get back at him and Plaintiff Oliveras.

65. Throughout his tenure, under the supervision of Defendant Esposito, Co-Plaintiff Martinez had protested the harassing, discriminatory treatment to Esposito and Local Union 32B-32J.

DAMAGES

66. As a direct consequence of Defendant's intentional and unlawful discriminatory employment policies and practices, as heretofore and hereafter described, Plaintiffs have suffered and continue to suffer from loss of income, mental and emotional harm, and have had to incur expenses, including legal fees and costs.

AS FOR A FIRST CAUSE OF ACTION: 42 U.S.C. § 1981
(Race, Hostile Work Environment, and Retaliation Discrimination Claims By Plaintiffs against Defendant Esposito Personally)

67. Plaintiffs Marisol Oliveras and Christian Martinez re-plead and re-allege each and every one of the allegations set forth in Paragraphs 1-66 of this Verified Complaint with the same force and effect as if each was fully set forth herein.

68. Plaintiffs are Hispanics, of Puerto Rican descent, who engaged in Protected Activity. As such, they are members of a protected class under 42 U.S.C. § 1981.

69. Throughout their tenure, Plaintiffs' work performance, time and attendance have been satisfactory.

70. Sometime in November/December 2015, Defendant Esposito was assigned to Dewitt Clinton High School, as the Plaintiffs' employing Custodian Engineer. Shortly after his arrival to D.C.H.S, Esposito learned of Ms. Oliveras' claims against her employers, as referenced in paragraph 11 above.

71. Immediately thereafter, Ms. Oliveras became the subject of harassment, hostile work environment, and retaliation, which included but was not limited to her termination without justification in December 2016, and March 2017. Throughout her tenure under the supervision of Defendant Esposito, beginning in January 2016, he would constantly and continuously threaten her job security, unless she dropped her discrimination lawsuit.

72. In early February 2016, upon Plaintiff's return from vacation, she discovered that her clothing change room was "vandalized", with her cloth/uniform and other personal items strewn all over the place. She also discovered a big hole in the floor, with dust everywhere.

73. Ms. Oliveras went to see Defendant Esposito and was told that he would look into the situation. For several weeks, Plaintiff had to change in the Public Bathroom and had no place to store her personal property such as her non-work clothes, bag, and other valuables.

74. Moreover, since her return from vacation in February 2016, Foreman Schwall, aided and abetted by Esposito, continuously berated and harassed Plaintiff. He further repeatedly threatened her job security at the school, stating he had the backing of Defendant Esposito.

75. Curiously, on 3-17-2016, as Ms. Oliveras arrived for work at about 5:30 a.m., Foreman Schwall was waiting for her. As she passed him by, he began to laugh, stating: "You'll see what's going to happen to you today". After she started her work, he began to follow her all over the place, including when she went into the Ladies' Room. Furthermore, he began cursing at her, using foul language, including the "F" word, "B" word, and referring to her as a "Dumb Puerto Rican".

76. Accordingly, as Plaintiff could not tolerate this retaliatory harassing work environment, Ms. Oliveras went to Defendant Custodian Engineer, Thomas Esposito, to lodge her complaints, again. However, this time she shared with Defendant Esposito that she feared for her safety, telling Esposito that Benny was acting like a "Crazy Maniac". She suspected that Schwall was under some kind of influence.

77. Esposito's response was that she should transfer to another school. She declined, as to do so would cause her to lose her Seniority. To this, Defendant Esposito said there was nothing he could do, as Schwall was her immediate supervisor. He then suggested that she resign and let her husband take care of her.

78. Fed up, Plaintiff Oliveras was forced to punch out early, and went to the Local Police Precinct and lodged a Criminal Harassment Complaint against Supervisor Schwall.

79. After filing the Criminal Harassment Report with the Local Police Precinct against Foreman Schwall, Plaintiff Oliveras was shunned by Esposito, who singled her out for unnecessary micro-supervision, and video surveillance. He further encouraged her to voluntarily transfer out to another school. Once again, Plaintiff Oliveras declined.

80. In the interim, from March 18, 2016 to date, Foreman Schwall continues to harass Plaintiff Oliveras. He bullies and belittles her, yells at her and is continuously threatening her job security, declaring that he will do everything he can to have her fired.

81. Supervisor Schwall follows his threats by fabricating false accusations against Ms. Oliveras' work performance, and repeatedly getting in her face declaring that he is "in charge from now on".

82. As Defendant Esposito would not intercede on her behalf, and fearing for her physical safety, Ms. Oliveras had to return to the Local Precinct and file another Harassment Complaint against Schwall on 5-10-2016.

83. Unlike her male co-worker cleaners, Ms. Oliveras was relegated to clean the worst and most disgusting bathrooms during her shift. When she asked Defendant Esposito why she was assigned to this disgusting job, he would reply that Bathroom cleaning was a woman's work.

84. Unlike her male cleaner colleagues, Plaintiff Oliveras was not supplied with the proper supplies and means to accomplish her tasks. For example, she had to use a shovel to remove snow, while snow removal machinery and vehicles were utilized by her male coworkers. When she inquired from Defendant Esposito for the reason, he told her that she should not complain, and he happy that she has a job.

85. While the foregoing is not exhaustive of what Plaintiff has had to endure, it is a representative flavor of what she has been, and continued to experience throughout her tenure at D.C.H.S, by her Employers and their Agents, for exercising her rights as protected by the anti-discrimination laws.

86. As mentioned above, since becoming the Custodian Engineer, Plaintiff Oliveras regularly and continuously asked Defendant Esposito to be considered for any opening for which she was qualified, i.e. a) Boiler Maintenance Man; b) Painter; c) Handy Man; d) Painter's Helper; e) Foreman; and/or f) Office Secretary.

87. Throughout her tenure, Defendant Esposito made many appointments and promotions, for which Oliveras was qualified.

88. During this time period, Defendant Esposito appointed the following White Individuals: (a) Mr. Ronald Spring, (b) Mr. Nicholas Doe , (c) Ms. Maria "Barsli".

89. In December 2015, Defendant Esposito became the Custodian Engineer at D.C.H.S. Shortly thereafter, in early 2016, Esposito found out about the familial relationship between Plaintiffs. Soon thereafter, Esposito began a campaign of hostility toward Co-Plaintiff Martinez.

90. Amongst others, Esposito began to accost Martinez and make derogatory remarks toward him. For example, he would make repeated comments such as "You Dumb Puerto Ricans".

91. Defendant Esposito made it expressly clear to Martinez that because his Mom, Marisol Oliveras, had made mention of his name in her discrimination claims, he was going to get rid of both of them, in retribution thereof.

92. As a Field Handyman, part of Mr. Martinez's duty is to take care of approximately 25 acres of outdoor property, which includes a Football Field, a Baseball Field, a Softball Field, and Tennis Courts. Significantly, he had to prepare the Ball Fields and cut the grass.

93. The overwhelming majority of the student body (80%-90%) is Latinx. To that end, Defendant Esposito regularly declined to have Mr. Martinez appropriately prepare the Ball Field, for upcoming events. Esposito's reasoning given to Martinez: "These Dumb Puerto Rican Spics are no Yankees".

94. In furtherance of Martinez's harassment, whenever it rained, Defendant Esposito would walk to the Field Outhouse and order Co-Plaintiff to cut the grass. Mr. Martinez explained that grass should not be cut during rain or while it is wet, as such exercise would be futile and damage the machinery. Defendant Esposito's response was "I am Italian, not Mexican, what do I know about grass cutting?" However, Esposito would continue to insist that Martinez go out in the rain and cut the grass.

95. Moreover, throughout his tenure, under the directorship of Defendant Esposito, Mr. Martinez has been denied the appropriate pay scale of a Handyman.

96. Furthermore, Defendant Esposito refused to provide Mr. Martinez with the proper equipment and machinery to do his job. Defendant Esposito also refused to reimburse Mr. Martinez for supplies he needed to do his job, such as Diesel and Gasoline.

97. To compound the hostile work environment created by Defendant Esposito, Mr. Martinez did not get the help his position required, and was denied the overtime necessary to successfully do his work.

98. Defendant Esposito repeatedly threaten to fire Mr. Martinez due to his Mother's, Plaintiff Oliveras', discrimination claims pending against former Custodian Engineer Rafferty and the Department of Education.

99. During the process of both terminations, Defendant Esposito proudly declared that he was firing Mr. Martinez to get back at him and Plaintiff Oliveras.

100. Plaintiffs disparate hostile and retaliatory treatment by Defendant Esposito in failing to promote Oliveras, and pay Martinez the appropriate rate pay scale, amongst others, was on account of their Race and/or in Retaliation for complaining of discrimination, in violation of Plaintiffs' rights under Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981.

101. In intentionally taking the above-described action, Defendant Esposito caused Plaintiff to suffer loss of wages, other benefits, pain and suffering, legal fees, and costs.

AS FOR A SECOND CAUSE OF ACTION: NYC ADMINISTRATIVE CODE
(Race, Hostile Work Environment, and Retaliatory Discrimination By Plaintiffs Against Defendant
Thomas Esposito Individually and as Custodian/Engineer)

102. Plaintiffs Marisol Oliveras and Christian Martinez re-plead and re-allege each and every one of the allegations set forth in Paragraphs 1-101 of this Verified Complaint with the same force and effect as if each was fully set forth herein.

103. Plaintiffs are Hispanics of Puerto Rican descent, who engaged in Protected Activity. As such, they are members of a protected class under the New York City anti-discrimination laws.

104. Moreover, since her return from vacation in February 2016, Foreman Schwall, aided and abetted by Esposito, continuously berated and harassed Plaintiff. He further repeatedly threatened her job security at the school, stating he had the backing of Defendant Esposito.

105. Curiously, on 3-17-2016, as Ms. Oliveras arrived for work at about 5:30 a.m., Foreman Schwall was waiting for her. As she passed him by, he began to laugh, stating: "You'll see what's going to happen to you today". After she started her work, he began to follow her all over the place, including when she went into the Ladies' Room. Furthermore, he began cursing at her, using foul language, including the "F" word, "B" word, and referring to her as a "Dumb Puerto Rican".

106. Accordingly, as Plaintiff could not tolerate this retaliatory harassing work environment, Ms. Oliveras went to Defendant Custodian Engineer, Thomas Esposito, to lodge her complaints,

again. However, this time she shared with Defendant Esposito that she feared for her safety, telling Esposito that Benny was acting like a "Crazy Maniac". She suspected that Schwall was under some kind of influence.

107. Esposito's response was that she should transfer to another school. She declined, as to do so would cause her to lose her Seniority. To this, Defendant Esposito said there was nothing he could do, as Schwall was her immediate supervisor. He then suggested that she resign and let her husband take care of her.

108. Fed up, Plaintiff Oliveras was forced to punch out early, and went to the Local Police Precinct and lodged a Criminal Harassment Complaint against Supervisor Schwall.

109. After filing the Criminal Harassment Report with the Local Police Precinct against Foreman Schwall, Plaintiff Oliveras was shunned by Esposito, who singled her out for unnecessary micro-supervision, and video surveillance. He further encouraged her to voluntarily transfer out to another school. Once again, Plaintiff Oliveras declined.

110. In the interim, from March 18, 2016 to date, Foreman Schwall continues to harass Plaintiff Oliveras. He bullies and belittles her, yells at her and is continuously threatening her job security, declaring that he will do everything he can to have her fired.

111. Supervisor Schwall follows his threats by fabricating false accusations against Ms. Oliveras' work performance, and repeatedly getting in her face declaring that he is "in charge from now on".

112. As Defendant Esposito would not intercede on her behalf, and fearing for her physical safety, Ms. Oliveras had to return to the Local Precinct and file another Harassment Complaint against Schwall on 5-10-2016.

113. Unlike her male co-worker cleaners, Ms. Oliveras was relegated to clean the worst and most disgusting bathrooms during her shift. When she asked Defendant Esposito why she was assigned to this disgusting job, he would reply that Bathroom cleaning was a woman's work.

114. Unlike her male cleaner colleagues, Plaintiff Oliveras was not supplied with the proper supplies and means to accomplish her tasks. For example, she had to use a shovel to remove snow, while snow removal machinery and vehicles were utilized by her male coworkers. When she inquired from Defendant Esposito for the reason, he told her that she should not complain, and he happy that she has a job.

115. While the foregoing is not exhaustive of what Plaintiff has had to endure, it is a representative flavor of what she has been, and continued to experience throughout her tenure at D.C.H.S, by her Employers and their Agents, for exercising her rights as protected by the anti-discrimination laws.

116. As mentioned above, since becoming the Custodian Engineer, Plaintiff Oliveras regularly and continuously asked Defendant Esposito to be considered for any opening for which she was qualified, i.e. a) Boiler Maintenance Man; b) Painter; c) Handy Man; d) Painter's Helper; e) Foreman; and/or f) Office Secretary.

117. Throughout her tenure, Defendant Esposito made many appointments and promotions, for which Oliveras was qualified.

118. During this time period, Defendant Esposito appointed the following White Individuals: (a) Mr. Ronal Spring, (b) Mr. Nicholas Doe, (c) Ms. Maria "Barsli".

119. In December 2015, Defendant Esposito became the Custodian Engineer at D.C.H.S. Shortly thereafter, in early 2016, Esposito found out about the familial relationship between Plaintiffs. Soon thereafter, Esposito began a campaign of hostility toward Co-Plaintiff Martinez.

120. Amongst others, Esposito began to accost Martinez and make derogatory remarks toward him. For example, he would make repeated comments such as "You Dumb Puerto Ricans".

121. Defendant Esposito made it expressly clear to Martinez that because his Mom, Marisol Oliveras, had made mention of his name in her discrimination claims, he was going to get rid of both of them, in retribution thereof.

122. As a Field Handyman, part of Mr. Martinez's duty is to take care of approximately 25 acres of outdoor property, which includes a Football Field, a Baseball Field, a Softball Field, and Tennis Courts. Significantly, he had to prepare the Ball Fields and cut the grass.

123. The overwhelming majority of the student body (80%-90%) is Latinx. To that end, Defendant Esposito regularly declined to have Mr. Martinez appropriately prepare the Ball Field, for upcoming events. Esposito's reasoning given to Martinez: "These Dumb Puerto Rican Spics are no Yankees".

124. In furtherance of Martinez's harassment, whenever it rained, Defendant Esposito would walk to the Field Outhouse and order Co-Plaintiff to cut the grass. Mr. Martinez explained that grass should not be cut during rain or while it is wet, as such exercise would be futile and damage the machinery. Defendant Esposito's response was "I am Italian, not Mexican, what do I know about grass cutting?" However, Esposito would continue to insist that Martinez go out in the rain and cut the grass.

125. Moreover, throughout his tenure, under the directorship of Defendant Esposito, Mr. Martinez has been denied the appropriate pay scale of a Handyman.1296. Furthermore, Defendant Esposito refused to provide Mr. Martinez with the proper equipment and machinery to do his job. Defendant Esposito also refused to reimburse Mr. Martinez for supplies he needed to do his job, such as Diesel and Gasoline.

127. To compound the hostile work environment created by Defendant Esposito, Mr. Martinez did not get the help his position required, and was denied the overtime necessary to successfully do his work.

128. Defendant Esposito repeatedly threaten to fire Mr. Martinez due to his Mother's, Plaintiff Oliveras', discrimination claims pending against former Custodian Engineer Rafferty and the Department of Education.

129. During the process of both terminations, Defendant Esposito proudly declared that he was firing Mr. Martinez to get back at him and Plaintiff Oliveras.

130. Plaintiffs disparate hostile and retaliatory treatment by Defendant Esposito in failing to promote Oliveras, and pay Martinez the appropriate rate pay scale, amongst others, was on account of their Race and/or in Retaliation for complaining of discrimination, in violation of Plaintiffs' rights under Section 8-101 of the New York City Human Rights Code.

131. In intentionally taking the above-described action, Defendant Esposito caused Plaintiff to suffer loss of wages, other benefits, pain and suffering, legal fees, and costs.

AS FOR A THIRD CAUSE OF ACTION: NYC ADMINISTRATIVE CODE
(Sex, Hostile Work Environment, and Retaliatory Discrimination By Plaintiff Oliveras Against Defendant
Thomas Esposito Individually and as Custodian Engineer)

132. Plaintiff Marisol Oliveras re-pleads and re-alleges each and every one of the allegation in Paragraphs 1-131 of this Verified Complaint with the same force and effect as if each was fully set forth herein.

133. Plaintiff Oliveras is a Female. As such, she is a member of a protected class under the New York City anti-discrimination laws.

134. Sometime in November/December 2015, Defendant Esposito was assigned to Dewitt Clinton High School, as the Plaintiffs' employing Custodian Engineer. Shortly after his arrival to

D.C.H.S, Esposito learned of Ms. Oliveras' claims against her employers, as referenced in paragraph 11 above.

135. Immediately thereafter, Ms. Oliveras became the subject of harassment, hostile work environment, and retaliation, which included but was not limited to her termination without justification in December 2016, and March 2017. Throughout her tenure under the supervision of Defendant Esposito, beginning in January 2016, he would constantly and continuously threaten her job security, unless she dropped her discrimination lawsuit.

136. In early February 2016, upon Plaintiff's return from vacation, she discovered that her clothing change room was "vandalized", with her cloth/uniform and other personal items strewn all over the place. She also discovered a big hole in the floor, with dust everywhere.

137. Ms. Oliveras went to see Defendant Esposito and was told that he would look into the situation. For several weeks, Plaintiff had to change in the Public Bathroom and had no place to store her personal property such as her non-work clothes, bag, and other valuables.

138. Although Defendant Esposito promised to get Plaintiff another suitable place, this never materialized. On the other hand, her male co-workers have a private area to accommodate their personal needs and store their equipment/supplies.

139. Moreover, upon her return from her prolonged vacation, she discovered that no one covered her assigned cleaning area. However, when her male colleagues went on vacation, she was expected to, and did in fact, cover their areas.

140. For example, when her male colleagues Benny and Chris were out, Plaintiff had to cover their areas as well as hers, including the Cafeteria.

141. Moreover, since her return from vacation in February 2016, Foreman Schwall, aided and abetted by Esposito, continuously berated and harassed Plaintiff. He further repeatedly threatened her job security at the school, stating he had the backing of Defendant Esposito.

142. Curiously, on 3-17-2016, as Ms. Oliveras arrived for work at about 5:30 a.m., Foreman Schwall was waiting for her. As she passed him by, he began to laugh, stating: "You'll see what's going to happen to you today". After she started her work, he began to follow her all over the place, including when she went into the Ladies' Room. Furthermore, he began cursing at her, using foul language, including the "F" word, "B" word, and referring to her as a "Dumb Puerto Rican".

143. Accordingly, as Plaintiff could not tolerate this retaliatory harassing work environment, Ms. Oliveras went to Defendant Custodian Engineer, Thomas Esposito, to lodge her complaints, again. However, this time she shared with Defendant Esposito that she feared for her safety, telling Esposito that Benny was acting like a "Crazy Maniac". She suspected that Schwall was under some kind of influence.

144. Esposito's response was that she should transfer to another school. She declined, as to do so would cause her to lose her Seniority. To this, Defendant Esposito said there was nothing he could do, as Schwall was her immediate supervisor. He then suggested that she resign and let her husband take care of her.

145. Fed up, Plaintiff Oliveras was forced to punch out early, and went to the Local Police Precinct and lodged a Criminal Harassment Complaint against Supervisor Schwall.

146. After filing the Criminal Harassment Report with the Local Police Precinct against Foreman Schwall, Plaintiff Oliveras was shunned by Esposito, who singled her out for unnecessary micro-supervision, and video surveillance. He further encouraged her to voluntarily transfer out to another school. Once again, Plaintiff Oliveras declined.

147. In the interim, from March 18, 2016 to date, Foreman Schwall continues to harass Plaintiff Oliveras. He bullies and belittles her, yells at her and is continuously threatening her job security, declaring that he will do everything he can to have her fired.

148. Supervisor Schwall follows his threats by fabricating false accusations against Ms. Oliveras' work performance, and repeatedly getting in her face declaring that he is "in charge from now on".

149. As Defendant Esposito would not intercede on her behalf, and fearing for her physical safety, Ms. Oliveras had to return to the Local Precinct and file another Harassment Complaint against Schwall on 5-10-2016.

150. Unlike her male co-worker cleaners, Ms. Oliveras was relegated to clean the worst and most disgusting bathrooms during her shift. When she asked Defendant Esposito why she was assigned to this disgusting job, he would reply that Bathroom cleaning was a woman's work.

151. Unlike her male cleaner colleagues, Plaintiff Oliveras was not supplied with the proper equipment and means to accomplish her tasks. For example, she had to use a shovel to remove snow, while snow removal machinery and vehicles were utilized by her male coworkers. When she inquired from Defendant Esposito for the reason, he told her that she should not complain, and be happy that she has a job.

152. Plaintiff Oliveras' disparate hostile and retaliatory treatment by Defendant Esposito and in failing to promote her, amongst others, was on account of her Sex and/or in Retaliation for complaining of discrimination, in violation of Oliveras' rights under Section 8-101 of the New York City Human Rights Code.

153 In intentionally taking the above-described action, Defendant Esposito caused Plaintiff Oliveras' to suffer loss of wages, other benefits, pain and suffering, legal fees, and costs

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, Marisol Oliveras and Christian Martinez, respectfully demand judgment and pray that this Court Order:

(a) A declaratory judgment that Defendant, Thomas Esposito, discriminated on the basis of Plaintiffs' Race, and/or Retaliated against them for engaging in protected activity, in violation of 42 U.S.C. § 1981; When Esposito terminated their employment, amongst others;

(b) That Defendant Esposito, discriminated against Plaintiffs on the basis of their Race, and/or in Retaliation for engaging in protected activity, and/or based on Sex pertaining to Plaintiff Oliveras, all in violation of the New York City Human Rights Law, Administrative Code §§ 8-101, et seq.;

(c) Injunctive relief permanently restraining and enjoining Defendant Esposito, from making discriminatory employment decisions, and monitoring his employment practices;

(d) Reinstating both Plaintiffs, and make them whole;

(e) Requiring Defendant to, make Plaintiff Oliveras whole, by promoting her, with back pay, and compensating her for benefits she has suffered as a result of Defendant's unlawful discrimination against her, together with all interest on said amounts;

(f) Requiring Defendant Esposito, to pay all compensatory damages, including but not limited to the pain and suffering Plaintiffs were caused, by Defendant Esposito's discriminatory treatment of them;

(g) Requiring Defendant Esposito, individually, to pay Plaintiffs punitive damages, under all relevant statutes;

(h) Requiring Defendant Esposito, to pay Plaintiffs all reimbursable expenses;

(i) Requiring Defendant Esposito, to pay under 42 U.S.C. § 1981, the New York City Code, and all other applicable statutes, reasonable attorney's fees, and costs of this action; and

(j) Such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiffs respectfully demand a trial by jury in this action.

Dated: New York, New York
April 8, 2016

Respectfully Submitted,
Law Offices of LEE NUWESRA

By: ______________________

Lee Nuwesra (LN 5851)
Attorney for Plaintiffs
60 East 42nd Street, Suite 1132
New York, New York 10165
(212) 370-8707
lnuwesra@optonline.net

VERIFICATION

MARISOL OLIVERAS hereby declares, pursuant to 28 U.S.C § 1746, under penalty of perjury that I have reviewed my Factual Portion of the Verified Complaint and know them to be true, except as to those matters that are made upon information and belief.

Executed On April 9, 2017

x Marisol Oliveras

Marisol Oliveras

VERIFICATION

CHRISTIAN MARTINEZ hereby declares, pursuant to 28 U.S.C § 1746, under penalty of perjury that I have reviewed my Factual Portion of the Verified Complaint and know them to be true, except as to those matters that are made upon information and belief.

Executed On April 9, 2017

Christian Martinez